IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 11577 of 2004

Between:

Dr. M.Munirathman S/o Chinnaiah
Research Asst. in Sanakrit Oriental Research Institute Sri Venkateswara University, Tirupathi

..... PETITIONER

AND

1 The Govt. of AP Rep. by its Principal Secretary Higher Education Department Secretariat, Hyderabad
2 The Secretary, AP. State Council for Higher Education Hyderabad
3 Sri Venkateswara University Tirupathi , Chittoor District rep. by its Registrar

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ , order or direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents is not considering the petitioner for re-designation as Asst. Professor on per with the similarly situated employees as arbitrary, discriminatory and illegal and consequently direct the respondent to re-designate the Petitioner as Asst. Professor in Sanskrit in Oriental Research Institute of the Respondent University in terms of GORt.No.321 HE (UE-1-I) Department, dt. 16/04/2001 with notional seniority from 16/04/2001 and with all other consequential benefit, monetary and otherwise

Counsel for the Petitioner:MR.V.JAGAPATHI

Counsel for the Respondent No.1: GP FOR HIGHER EDUCATION

Counsel for Respondent No.2: Mr. Ramesh Babu

Counsel for Respondent NO.3: Mr. Sree Ramulu Naidu

The Court made the following :

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ORDER:

Heard both sides and at their request the main Writ Petition itself is taken up for disposal.

The petitioner who is working as Lecturer/Assistant Professor in Sanskrit in Oriental Research Institute of S.V. University, files this Writ Petition inter alia, seeking for mandamus declaring the action of the respondents in not considering his case for re-designation as Assistant Professor on par with the similarly situated persons, as arbitrary and illegal and a further direction to re-designate as such in terms of G.O.Ms.No. 321 HE (UE.I-I) Department dated 16.4.2001.

The facts in brief are that the petitioner has been working as such with the third respondent. However, in pursuant to the notification issued earlier in the year 1989, the case of the petitioner could not be considered since he is not fully qualified. According to the petitioner, he has subsequently qualified and therefore, he is entitled for re-designation. It is stated that the persons who are not qualified also recommended and therefore, there is absolutely no reason to deny such similar benefit to the petitioner. Hence, the present Writ Petition.

In the counter affidavit filed by the respondents, it is stated that admittedly, the petitioner was not qualified when the earlier notification issued in the year 1989, and therefore, he cannot seek any such relief in the absence of any proper follow up action. It is also specifically stated in the counter affidavit that as and when fresh consideration of promotions are being done, by issuing circular, certainly, the case of the petitioner would come up for consideration.

Having heard the learned counsel on either side and also on perusal of the material, as far as the claim of re-designation of the post is concerned, it is purely a matter of policy and is at the discretion of the third respondent-University who has to initiate the process on the exigency of circumstances and the same has to be recommended to the first respondent who has to pass the orders accordingly. There is no dispute with regard to the fact that on the earlier occasion when such circular was issued, the petitioner was not qualified and subsequently, he obtained the qualification. Therefore, it is stated that his post should be re-designated on par with the others.

Having regard to the fact that there is no such proposal initiated by the third respondent, the petitioner cannot seek any relief nor he has any locus, much less right to claim such a re-designation, which is exclusively administrative policy matter on the part of the third respondent. However, it would suffice in the interest of justice to record the statement made in the counter affidavit that as and when any fresh proposals are being made or initiated, the case of the petitioner shall be considered.

Subject to above, I do not find any merit in the Writ Petition and accordingly, the Writ Petition is dismissed. No costs.

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B. Prakash Rao, J

9th December, 2004

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To

1 The Principal Secretary, Govt. of AP., Higher Education Department
Secretariat, Hyderabad
2 The Secretary, AP. State Council for Higher Education
Hyderabad
3 The Registrar, Sri Venkateswara University Tirupathi , Chittoor District
4 2 CCs to G.P. for Higher Education, High Court of A.P.,

Hyderabad (OUT)

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